

Chapter 3

Medical Care

➔ *For tips on how to “Keep Your Claim on Track,” see page 17. See also Chapter 9, “For More Information and Help.”*

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Who pays for my medical care?

Your employer pays for medical care for your work-related injury or illness, either through a workers' compensation insurance policy or by being self-insured. The claims administrator pays the medical bills. You should never receive a medical bill, as long as you filed a claim form and your physician knows that the injury is work-related.

It is illegal for a physician or medical facility to bill a worker if they know the injury is or may be work-related. This law is found in California Labor Code section 3751(b).

What kind of medical care is available to injured workers?

California workers' compensation law requires claims administrators to authorize and pay for medical care that is "reasonably required to cure or relieve" the effects of the injury. This means care that follows scientifically based medical treatment guidelines.

Medical treatment guidelines used in California

The medical treatment guidelines currently being used in California are in the medical treatment utilization schedule (MTUS) published by the state Division of Workers' Compensation (DWC). The MTUS includes portions of *Occupational Medicine Practice Guidelines, Second Edition*, published by the American College of Occupational and Environmental Medicine (ACOEM). They also include guidelines for acupuncture treatment, chronic pain treatment, and post-surgical treatment.

The medical treatment guidelines are designed to help physicians give appropriate treatment. This includes advising and guiding the injured worker on how to remain active while recovering, and informing the employer about the kinds of changes at work that are needed to promote recovery. Such changes could involve different job assignments, reduced working hours, or other accommodations that are safe and appropriate for the particular injury.

If your doctor recommends treatment that is not in the guidelines

Some injured workers have medical conditions requiring treatment that is not in the MTUS. If your doctor recommends treatment not in those guidelines, the claims administrator is required to pay for the treatment if it follows other scientifically based guidelines that are generally recognized by the national medical community. (Some treatment guidelines, for example, are available online at the website of the National Guideline Clearinghouse: www.guideline.gov.)

If your case is settled with an agreement on future medical care

If you and the claims administrator settled your workers' compensation case with an agreement that you will continue to receive medical care for your injury, the medical treatment guidelines and rules described above still apply to you. The guidelines and rules apply to *all* treatment, even in cases that settled before medical treatment guidelines were added to workers' compensation law.

Limits on chiropractic, physical therapy, and occupational therapy visits

If your date of injury is in 2004 or later, you are limited to 24 chiropractic visits, 24 physical therapy visits, and 24 occupational therapy visits for your injury (except for visits under the post-surgical treatment guidelines above), unless the claims administrator authorizes additional visits in writing. Also, regardless of your date of injury, you may be subject to other limits on these visits based on the medical treatment guidelines described above.

When does my medical care start?

If it's an emergency, your employer must make sure that you have access to emergency treatment right away. For non-emergency care, the claims administrator is required to authorize treatment within one working day after you file a claim form. While investigating your claim, he or she must authorize necessary treatment up to \$10,000.

What should I do if the claims administrator does not authorize treatment right away?

Speak with your supervisor, someone else in management, or the claims administrator about the law requiring immediate medical treatment. This law is found in California Labor Code section 5401(c). Ask for treatment to be authorized now, while waiting for a decision on your claim.

If the claims administrator won't authorize treatment, use your own health insurance to get medical care. Your health insurer will seek reimbursement from the claims administrator.

If you don't have health insurance, try to find a doctor, clinic, or hospital that will treat you without immediate payment. They will seek reimbursement from the claims administrator.

To challenge the claims administrator's decision not to authorize treatment, to request penalties, or to file a complaint, see Chapter 4, pages 31-32.

For non-emergency care, who can treat me right after I am injured?

It depends on whether your employer or the insurer has created a medical provider network (MPN) or has a contract with a health care organization (HCO) to treat injured workers, and whether you previously predesignated your personal physician or a medical group.

If you previously predesignated your personal physician or a medical group

Workers with employer-provided health insurance are allowed to predesignate their personal physician before injury. For information on how to predesignate, see Chapter 1. If you predesignated, you may see your personal physician right after you are injured.

If there is a medical provider network (MPN)

An MPN is a group of physicians and other health care providers selected by the employer or insurer to treat injured workers. MPNs must be approved by the state

Division of Workers' Compensation (DWC). An employer or insurer that creates an MPN must give you written information about the MPN.

If your employer or the insurer has created an MPN, in most cases you will first be treated in the MPN after you are injured, unless you predesignated.

If there is a health care organization (HCO)

An HCO is an organization certified by the DWC that contracts with an employer or insurer to provide managed medical care for injured workers. Most employers and insurers do *not* have contracts with HCOs. An employer or insurer that has a contract with an HCO must give employees a form prepared by the state Division of Workers' Compensation, DWC Form 1194, to allow them to choose whether to enroll in the HCO. This form must be given to new employees within 30 days after date of hire and to current employees at least once a year. The form is in the California Code of Regulations, title 8, section 9779.4, and can be downloaded. (For instructions on how to access the regulations, see Appendix A.)

If your employer or the insurer has a contract with an HCO, in most cases you will first be treated in the HCO after you are injured, unless you predesignated.

If there is no MPN or HCO

If your employer or the insurer has *not* created an MPN and does *not* have a contract with an HCO, in most cases the claims administrator can choose the doctor who first treats you after you are injured, unless you predesignated.

Other situations where you can choose who treats you right after injury

Sometimes an injured worker has a right to choose the primary treating physician even if he or she did not predesignate:

- If your employer did not post required information about your workers' compensation rights and has not offered treatment after learning about your injury, you can go to your personal physician right after you are injured.
- If your employer or the insurer sends you to treatment that is completely inadequate or refuses to provide necessary care, you can go to a physician of your choice. This does not have to be your personal physician.

If you believe one of these situations applies and you would like to be treated by your personal physician or another physician of your choice, get help immediately to avoid a possible dispute about who can choose the physician. Use the resources in Chapter 9.

DID YOU KNOW?

- Your employer is required to post information about your workers' compensation rights, including the right to predesignate your personal physician in case of job injury.
- If your employer or the insurer created a medical provider network (MPN), the employer or insurer is required to give you written information about rights, procedures, and services while being treated within the network.
- You have a right to request and receive copies of all medical reports that affect your benefits.
- You have a right to have another person present during a medical examination or to tape record the examination. **Note:** You should tell the doctor if you plan to tape record the examination.

Can I switch to a different doctor for treatment?

Yes. However, your choices depend on whether you are being treated in a medical provider network (MPN) or a health care organization (HCO) and whether you predesignated your personal physician.

Choices if you are being treated in an MPN

If you are being treated in an MPN, after the first medical examination for your injury, you are allowed to switch to another doctor within the MPN, and you may switch again whenever it is reasonable to do so. Your employer or the insurer must give you written information on how to do this. In most cases, you are not allowed to switch to a doctor outside the MPN.

Choices if you are being treated in an HCO

If you are being treated in an HCO, you are allowed to switch at least one time to another doctor within the HCO. The HCO must give you a choice of physicians within 5 days after you request a change.

If you are covered by employer-provided health insurance, then 180 days after your injury or illness is reported to your employer, you are allowed to switch to a doctor outside the HCO. If you are *not* covered by employer-provided health insurance, then 90 days after your injury or illness is reported to your employer, you are allowed to switch to a doctor outside the HCO.

When you switch to a doctor outside the HCO, the new doctor can be a medical doctor, osteopath, psychologist, acupuncturist, optometrist, dentist, podiatrist, or chiropractor. (A chiropractor may not be your treating physician, however, after you have received 24 chiropractic visits for your injury.) You or the new doctor must give the claims administrator the doctor's name and address. This allows the claims administrator to obtain medical reports and pay for your medical care. You may switch again whenever it is reasonable to do so.

Choices if you are not being treated in an MPN or HCO and you did not predesignate

If you are *not* being treated in an MPN or HCO and you did *not* predesignate your personal physician, you have a right to switch to a new doctor one time during the first 30 days after your injury or illness is reported to your employer. However, the claims administrator is usually allowed to choose the new doctor. But if you gave your employer the name of your personal chiropractor or acupuncturist in writing before you were injured, you may switch to your chiropractor or acupuncturist upon request, after you first see a doctor chosen by the claims administrator. (A chiropractor may not be your treating physician, however, after you have received 24 chiropractic visits for your injury.)

After 30 days, you are allowed to switch to a doctor of your choice if you still need medical care and your employer or the insurer still has not created an MPN. The new doctor can be a medical doctor, osteopath, psychologist, acupuncturist, optometrist, dentist, podiatrist, or chiropractor. (A chiropractor will be subject to the 24-visit limit described above.) You or the new doctor must give the claims administrator the doctor's name and address. This allows the claims administrator to obtain medical reports and pay for your medical care. You may switch again whenever it is reasonable to do so.

Choices if you are being treated by a predesignated personal physician

If there is an MPN:

If you are being treated by a doctor you predesignated and your employer or the insurer has created an MPN, you may switch to a new doctor within the MPN, and you may switch again within the MPN whenever it is reasonable to do so. Your employer or the insurer must give you written information about how to select a doctor within the MPN. However, your predesignated personal physician may refer you to another doctor outside the MPN for consultation or specialized treatment.

If there is an HCO:

If you are being treated by a doctor you predesignated and your employer or the insurer has a contract with an HCO, you may switch to a new doctor within the HCO. You may

switch again within the HCO and later to a doctor outside the HCO as described above, under "Choices if you are being treated in an HCO."

If there is no MPN or HCO:

If you are being treated by a doctor you predesignated and your employer or the insurer has *not* created an MPN and does *not* have a contract with an HCO, you may switch doctors as described above, under "Choices if you are *not* being treated in an MPN or HCO and you did *not* predesignate."

How can I avoid problems in getting appropriate treatment?

Understand your primary treating physician's treatment plan, and request copies of all medical reports about your injury written by your primary treating physician and any specialists. These reports, which the doctors are required to send to the claims administrator, describe the nature of your injury, causes of the injury, necessary treatment, and types of work you can do while recovering. The doctor and claims administrator are required to give you copies if you request them (except in some cases when the request is for mental health records). If you have questions about a particular report, ask the doctor.